IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21423 of 2004

Between:

1 Gummalla Sai, S/o. Sri Appa Rao,
R/o. Door No.14-73, Biccavolu Village, Biccavolu Mandal, E.G.District.
2 Tirubilli Ramana, S/o. Sri Tata Rao,
R/o. Door No. 2-80, Biccavolu Village Viccavolu Mandal, E.G.District.
3 Sidda Nuka Raju, S/o. Sri Rayudu,
R/o. Door No. 14-76, Biccavolu Village, Biccavolu Mandal, E.G.District.
4 Potapudi Appa Rao, S/o. Sri Sattayya,
R/o. Door No.13-225, Biccavolu Village, Biccavolu Mandalam, E.G.District.
5 Bulipa Simhahalam, S/o. Bulipa Surayya,
R/o. Door No. 2-81, Biccavolu Village, Biccavolu Mandal, E.G.District.
6 Katturi Rajayya, S/o. Sri Venkanna,
R/o. Door No.13-26, Biccavolu Village, Biccavolu Mandal, E.G.District.
7 T. Suri Babu, S/o. Late T. Tatayya,
R/o. Door No.14-1, Biccavolu Village, Biccavolu Mandal, E.G.District.

..... PETITIONERS

AND

1 The A.P. Bhoodan Yagna Board, Gandhi Bhavan, Hyderabad,
rep. by its Secretary.
2 The Mandal Revenue Officer, Biccavolu Mandal, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in R.No.E/653/94, dated. 31.7.2004 in canceling the allotment of the lands over an extent of Ac. 16.00 of land

in Sy.No.239/1, Ac. 2-50 cents, Sy.No.239/1 0-15 cents, Sy.No.238 1-93 cents, Sy.No.246/2 0-42 cents, Sy.No.246/2 1-50 cents, Sy.No.239/2 1-00 cents, Sy.No.239/2 0-10 cents, Sy.No.111 1-92 cents, Sy.No.189/5 -034 cents, Sy.No.192/2 1-65 cents, Sy.No.192/2 1-65 cents Sy.No.192/3 0-34 cents and Sy.No.114/1 2-50 cents as arbitrary, illegal, violative of the principles of natural justice and violative of the Fundamental Rights guaranteed to the petitioners under Articles 14 and 21 of the Constitution of India and set aside the same.

Counsel for the Petitioners: MR.C.V.MOHAN REDDY

Counsel for the Respondent No.1: MR.CHAYANAM RAVINDRANATH

Counsel for the Respondent No.2: Government Pleader for Revenue

The Court made the following :

ORAL ORDER:

The petitioners have filed this writ petition seeking a Mandamus to declare the action of the 1st respondent in issuing the Proceedings in

R.No.E/653/94, dated 31.7.2004 cancelling the allotment of an extent of Ac.16.00 cents of land in various survey numbers as illegal and arbitrary.

The case of the petitioners is that one late Gunnam Gangaraju, inspired by the Bhoodan Movement, which was started by Acharya Vinoba Bhave, donated an extent of Ac.16.00 cents of land. In the year 1994, the petitioners were granted pattas in accordance with the procedure contemplated under Section 14 of the Andhra Pradesh Bhoodan and Gramdan Act, 1965 (for brevity "The Act"). Thereafter, the 1st respondent issued a show cause notice calling upon the petitioners to explain why the lands so allotted to them shall not be cancelled on the ground that they are not the residents of the village, for which, the petitioners submitted their explanation, but it was not considered, and therefore, the impugned proceedings have been passed cancelling the allotment of the land to the petitioners.

Sri C.V.Mohan Reddy, learned senior counsel for the petitioners has contended that even though an explanation, dated 3.7.2004 was given, the respondents, without referring to the explanation and without giving a reasonable opportunity of hearing the matter, put forward the petitioners' case stating that no explanation was submitted by the petitioners and passed the impugned proceedings. Therefore, he prays to set aside the impugned proceedings.

On the other hand, Sri C.Ravindranath, learned standing counsel for the 1st respondent has contended that the impugned proceedings have been passed after following due procedure as required under Section 14 of the Act. Therefore, it does not suffer from any incurable legal infirmities so as to call for interference by this Court.

The facts are in narrow compass. At the request of the learned counsel for both the parties, the main writ petition is taken up.

Admittedly, late Gunnam Gangaraju, inspired by the Bhoodan Movement, which was started by Acharya Vinoba Bhave, donated the extent of Ac.16.00 cents of land. As per the procedure

contemplated under Section 14 of the Act, the petitioners were granted pattas in the year 1994. Since then, according to the petitioners, they have been in physical possession and enjoyment of the lands. As the petitioners are not belonging to the same village, they have not been in possession of the property. A show cause notice, dated 2.6.2004 was issued calling for the explanation, but there is a dispute with regard to the giving of explanation. Without going into the controversy whether the explanation was given or not, it is clear that without affording a reasonable opportunity to the petitioners, the 1st respondent passed the impugned proceedings. Therefore, it has to be set-aside on the sole ground that principles of natural justice have been violated.

Having regard to the facts and circumstances of the case, the impugned proceedings, dated 31.7.2004 are set aside and the 1st respondent is directed to give a reasonable opportunity to the petitioners in accordance with the provision of Section 14 of the Act and take appropriate decision. Till the decision is taken, the possession of the petitioners shall not be disturbed.

With the above direction, the writ petition is disposed of. There shall be no order as to costs.

(K.C. BHANU, J.)

25th November, 2004.

bcj

To

1 The Secretary, A.P. Bhoodan Yagna Board, Gandhi Bhavan, Hyderabad,
2 The Mandal Revenue Officer, Biccavolu Mandal, E.G.District.

3. Two CCs to G.P for Revenue, High Court Buildings, Hyderabad(OUT).

4. Two CD copies